Simon v. Adzilla, Inc [New Media] et al Doc. 161

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Specially appearing for Cameron Winklevoss,
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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

FACEBOOK, INC. and MARK ZUCKERBERG,

Plaintiffs,

v.

CONNECTU LLC (now known as ConnectU, Inc.), CAMERON WINKLEVOSS, TYLER WINKLEVOSS, DIVYA NARENDRA, PACIFIC NORTHWEST SOFTWARE, INC., WINSTON WILLIAMS, WAYNE CHANG, and DAVID GUCWA,

Defendants.

CASE NO. C 07-01389 RS

DECLARATION OF SCOTT R. MOSKO IN SUPPORT OF DEFENDANTS CONNECTU, INC., CAMERON WINKLEVOSS, TYLER WINKLEVOSS AND DIVYA NARENDRA'S OPPOSITION TO PLAINTIFFS' MOTION FOR EVIDENTIARY AND RELATED SANCTIONS, INCLUDING SANCTIONS PURSUANT TO 28 U.S.C. § 1927

Date: October 10, 2007
Time: 9:30 a.m.
Dept.: 4
Judge: Hon. Richard Seeborg

Dockets.Justia.com

DECLARATION OF SCOTT R. MOSKO

I, Scott R. Mosko declare,

1. I am an attorney duly licensed to practice law in the state of California and before the Northern District of California. I am a member of Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, attorneys of record for Defendants ConnectU, Inc., Cameron Winklevoss, Tyler Winklevoss and Divya Narendra. The matters referred to in this declaration are based on my personal knowledge and if called as a witness I could, and would, testify competently to those matters.

2. Attached hereto as Exhibit I is a true and correct copy of Magistrate Judge Robert B. Collings' Report and Recommendation on Facebooks Defendants' Motion to Dismiss (#94) dated March 2, 2007 and Judge Douglas P. Woodlock's Electronic Order Adopting Report and Recommendations as entered on March 28, 2007 in the District of Massachusetts action, Civil Action No. 2004-11923-DPW.

3. Attached hereto as Exhibit II is a true and correct copy of Plaintiff's Complaint as filed on September 2, 2004 in the District of Massachusetts action, Civil Action No. 2004-11923-DPW.

4. Attached hereto as Exhibit III is a true and correct copy of an Order as entered on January 6, 2006 in the Superior Court for the County of Santa Clara action, Case No. 1:05-CV-047381.

5. Attached hereto as Exhibit IV is a true and correct copy of an Order as entered on February 17, 2006 in the Superior Court for the County of Santa Clara action, Case No. 1:05-CV-047381.

6. Attached hereto as Group Exhibit V are true and correct copies of the following documents as filed in the Superior Court for the County of Santa Clara action, Case No. 1:05-CV-047381:

V-1. Notice of Hearing on Defendants' Motion to Quash Service of Complaint and Summons for Lack of Personal Jurisdiction, as filed April 28, 2006;

V-2. Defendants' Motion to Quash Service of Complaint and Summons for Lack of Personal Jurisdiction, as filed April 28, 2006;

V-3. Declaration of Scott R. Mosko in Support of Motion to Quash Service of Complaint and Summons for Lack of Personal Jurisdiction with attached exhibits 1 through 4, as filed April 28, 2006;

V-4. Facebook, Inc.'s Opposition to Defendants' Motion to Quash Service of Complaint and Summons for Lack of Personal Jurisdiction, as filed May 11, 2006 (**Filed Under Seal**);

V-5. Declaration of Robert D. Nagel in Support of Facebook, Inc.'s Opposition to Defendants' Motion to Quash Service of Complaint and Summons for Lack of Personal Jurisdiction with attached exhibits V-5-A through V-5-S (**Exhibits V-5-A through V-5-D, V-5-H through V-5-J, and V-5-M through V-5-P, and V-5-R Filed Under Seal**), as filed May 11, 2006 ;

V-6. [Proposed] Order Denying Motion to Quash Complaint and Summons for Lack of Personal Jurisdiction;

V-7. Defendants' Reply to Opposition to Motion to Quash Service of Complaint and Summons for Lack of Personal Jurisdiction, as filed May 24, 2006 (with subsequent corrected page citations)(**Filed Under Seal**);

V-8. Supplemental Declaration of Scott R. Mosko in Support of Defendants' Reply to Opposition to Motion to Quash Service of Complaint and Summons for Lack of Personal Jurisdiction with attached exhibits V-8-A through V-8-H (**Exhibits V-8-E, V-8-G, and V-8-H Filed Under Seal**), as filed May 24, 2006;

V-9. Supplemental Declaration of Cameron Winklevoss in Support of Defendants' Reply to Opposition to Motion to Quash Service of Complaint and Summons for Lack of Personal Jurisdiction, as filed May 24, 2006;

V.10. Supplemental Declaration of Tyler Winklevoss in Support of Defendants' Reply to Opposition to Motion to Quash Service of Complaint and Summons for Lack of Personal Jurisdiction, as filed May 24, 2006;

V-11. Supplemental Declaration of Howard Winklevoss in Support of Defendants' Reply to Opposition to Motion to Quash Service of Complaint and Summons for Lack of Personal Jurisdiction, as filed May 24, 2006;

V-12. Supplemental Declaration of Divya Narendra in Support of Defendants' Reply to Opposition to Motion to Quash Service of Complaint and Summons for Lack of Personal Jurisdiction, as filed May 24, 2006; and

V-13. [Proposed] Order Granting Defendants' Motion to Quash Complaint and Summons for Lack of Personal Jurisdiction.

7. Attached hereto as Exhibit VI is a true and correct copy of an Order as entered on March 10, 2006 in the Superior Court for the County of Santa Clara action, Case No. 1:05-CV-047381.

8. Attached hereto as Exhibit VII is a true and correct copy of the Declaration of Scott R. Mosko in Support of Defendants ConnectU LLC, Cameron Winklevoss, Tyler Winklevoss, Howard Winklevoss, and Divya Narendra's Opposition to Plaintiffs' Motion to Compel Limited Depositions on the Matter of Personal Jurisdiction and Motion for Protective Order filed December 5, 2005 in the Superior Court for the County of Santa Clara action, Case No. 1:05-CV-047381.

9. Attached hereto as Group Exhibit VIII are true and correct copies of the Notice of Deposition of Defendant ConnectU LLC, Notice of Deposition of Defendant Cameron, Winklevoss. Notice of Deposition of Defendant Tyler Winklevoss, Notice of Deposition of Defendant Howard Winklevoss, and Notice of Deposition of Defendant Divya Narendra, all as served on March 3, 2005 in the Superior Court for the County of Santa Clara action, Case No. 1:05-CV-047381.

10. Attached hereto as Exhibit IX is a true and correct copy of the TheFacebook, Inc.'s First Set of Special Interrogatories to Defendant Divya Narendra as served on November 3, 2005 in the Superior Court for the County of Santa Clara action, Case No. 1:05-CV-047381.

11. Attached hereto as Exhibit X is a true and correct copy of the the Amended Response of Defendant Divya Narendra to Plaintiffs' First Set of Special Interrogatories (1-23) as served on

March 9, 2006 in the Superior Court for the County of Santa Clara action, Case No. 1:05-CV-047381 (**Filed Under Seal**).

12. Attached hereto as Exhibit XI is a true and correct copy of the transcript of deposition of Defendant Divya Narendra taken on January 16, 2006 in the Superior Court for the County of Santa Clara action, Case No. 1:05-CV-047381 (**Filed Under Seal**).

13. Attached hereto as Exhibit XII is a true and correct copy of the Declaration of Divya Narendra in Support of Plaintiff's Supplemental Brief in Opposition to Motion to Dismiss, Presenting New Evidence and Supplemental Authority in View of *PRAMCO* dated June 12, 2006 in the District of Massachusetts action, Civil Action No. 2004-11923-DPW (**Filed Under Seal**).

14. Attached hereto as Exhibit XIII is a true and correct copy of the TheFacebook, Inc.'s Complaint as filed on August 17, 2005 in the Superior Court for the County of Santa Clara action, Case No. 1:05-CV-047381.

15. Attached hereto as Exhibit XIV is a true and correct copy of the Limited Liability Company Operating Agreement of ConnectU, LLC dated April 6, 2004 (**Filed Under Seal**).

16. Attached hereto as Exhibit XV is a true and correct copy of Facebook Defendants' Opposition to Plaintiff's memorandum of Law in Compliance with the Court's June 22, 2006 Order regarding Legal Arguments raised by Facebook Defendants as filed July 27, 2006 in the District of Massachusetts action, Civil Action No. 2004-11923-DPW

17. Attached hereto as Exhibit XVI is a true and correct copy of an Order re: Demurrer of Defendant ConnectU, LLC to Complaint, and Motion of Defendants Cameron Winklevoss, Tyler Winklevoss, Howard Winklevoss and Divya Narendra to Quash Service of Summons and Complaint for Lack of Personal Jurisdiction as filed on June 2, 2006 in the Superior Court for the County of Santa Clara action, Case No. 1:05-CV-047381

18. Attached hereto as Exhibit XVII is a true and correct copy of the transcript of deposition of Defendant Divya Narendra taken on June 16, 2006 in the District of Massachusetts action, Civil Action No. 2004-11923-DPW (**Filed Under Seal**).

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this declaration was executed on the 19th day of September, 2007, in Palo Alto, California.

/s/
Scott R. Mosko